

Thomas Jefferson to Spencer Roane, October 12, 1815 , from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO SPENCER ROANE J. MSS.

Monticello, October 12, 1815.

Dear Sir, —I received in a letter from Colonel Monroe the enclosed paper communicated, as he said, with your permission, and even with a wish to know my sentiments on the important question it discusses. It is now more than forty years since I have ceased to be habitually conversant with legal questions; and my pursuits through that period have seldom required or permitted a renewal of my former familiarity with them. My ideas at present, therefore, on such questions, have no claim to respect but such as might be yielded to the common auditors of a law argument.

I well knew that in certain federal cases the laws of the United States had given to a foreign party, whether plaintiff or defendant, a right to carry his cause into the federal court; but I did not know that where he had himself elected the State judicature, he could, after an unfavorable decision there, remove his case to the federal court, and thus take the benefit of two chances where others have but one; nor that the right of entertaining the question in this case had been exercised or claimed by the federal judiciary after it had been postponed on the party's first election. His failure, too, to place on the record the particular ground which might give jurisdiction to the federal court, appears to me an additional objection of great weight. The question is of the first importance. The removal of it seems to be out of the analogies which guide the two governments on their separate tracts, and claims the solemn attention of both judicatures, and of the nation itself. I should

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fear to make up a final opinion on it, until I could see as able a development of the grounds of the federal claim as that which I have now read against it. I confess myself unable to foresee what those grounds would be. The paper enclosed must call them forth, and silence them too, unless they are beyond my ken. I am glad, therefore, that the claim is arrested, and made

the subject of special and mature deliberation. I hope our courts will never countenance the sweeping pretensions which have been set up under the words "general defence and public welfare." These words only express the motives which induced the Convention to give to the ordinary legislature certain specified powers which they enumerate, and which they thought might be trusted to the ordinary legislature, and not to give them the unspecified also; or why any specification? They could not be so awkward in language as to mean, as we say, "all and some." And should this construction prevail, all limits to the federal government are done away. This opinion, formed on the first rise of the question, I have never seen reason to change, whether in or out of power; but, on the contrary, find it strengthened and confirmed by five and twenty years of additional reflection and experience: and any countenance given to it by any regular organ of the government, I should consider more ominous than anything which has yet occurred.

I am sensible how much these slight observations, on a question which you have so profoundly considered, need apology. They must find this in my zeal for the administration of our government according to its true spirit, federal as well as republican, and in my respect for any wish which you might be supposed to entertain for opinions of so little value. I salute you with sincere and high respect and esteem.